

## **RSU #63**

- a. NEPN/NSBA Code:** **JKF-R**
- b. Title:** **Disciplinary Removal of Students with Disabilities - Administrative Procedure**
- c. Author:**
- d. Replaces Policy:**
- e. Date Approved:** **11/29/2021 RSU #63**
- f. Previously Approved:** **01/22/2018**
- g. Policy Expiration:** **Review as Needed**
- h. Responsible for Review:** **Director of Special Services/Superintendent/  
Policy Committee**
- i. Date Reviewed:** **10/13/2021 Director of Special Services  
10/25/2021 Superintendent  
11/08/2021 Policy Committee**
- j. References:** **Ch. 101 § XVII (Me. Dept. of Educ. Rules)  
(2015)  
34 C.F.R. § 300.101, .530-.536 (2006)**

**Cross Referenced Policies: JKF - Disciplinary Removal of Students with Disabilities**

### **k. Narrative:**

These procedures will govern disciplinary removals of students with disabilities from their regular school program. These procedures will be interpreted in a manner consistent with state and federal special education laws and regulations.

- I.** School administrators may suspend students in Grade 6 and higher with disabilities for up to 10 cumulative school days in the school year under the same terms and conditions as students without disabilities are suspended, subject to the limitations set forth below.
- II.** Out of school suspension is prohibited for any student who is in Grade 5 or lower, unless:
  - 1.** The student has violated the federal Gun Free School Zones Act; or
  - 2.** The student presents an imminent danger of “serious physical injury” to the student or others.

In the circumstances above, the law limits the length of an out of school suspension to no more than three (3) school days.

- B.** Any student attending a RSU #63 school cannot be deprived of their recess time as a disciplinary consequence.
- C.** In the event that a disabled student’s Individualized Educational Plan (IEP) specifically lists a school response other than a suspension that must be followed for a particular type of misconduct, the school administrator will follow the requirements of the IEP in responding to that misbehavior.

- D.** When calculating the ten (10) cumulative school day total, school administrators will include school days spent in an in-school suspension or removal, unless during that removal the child continued to have access to the general curriculum, to the special education services in his or her IEP, and to participation with non-disabled children to the extent they would have in the student's regular program.

**III.** After a student in Grade 6 and higher with a disability has been removed from their current placement for ten (10) cumulative school days or a student in Grade 5 or lower for three (3) cumulative school days in the same school year, during any subsequent days of removal the school administrator will consult with at least one of the student's teachers and then will arrange for the student to receive a level of educational services during the removal sufficient to enable the student to continue to participate in the general curriculum, although in another setting, and to progress toward meeting the goals listed in the student's IEP.

**IV.** Within ten (10) school days of any decision to "change the placement" of a student with a disability because of a violation of a code of student conduct, school officials will hold an IEP team meeting to undertake the following:

- A.** The Team will review all relevant information in the student's file including the IEP, any teacher observations, and recent evaluations.
- B.** The Team will undertake a manifestation determination to decide whether the student's misconduct was a manifestation of their disability.
- C.** If the Team determines that the misbehavior is a manifestation of the disability, the Team must either:
  - 1.** Conduct a functional behavior assessment, unless one had been conducted before the behavior incident, and will implement a behavior intervention plan for the child; or
  - 2.** If a behavior plan has already been developed, review the plan and modify it as necessary to address the behavior.

Except as provided in D. below, the Team must also return the student to the placement from which they were removed, unless the school and parent agree to a change of placement as part of the revision of the behavior plan.

- D.** If the Team determines that the misbehavior is not a manifestation of the disability, school personnel may apply the relevant disciplinary procedures in the same manner and for the same duration as the procedures would be applied to students without disabilities, except that services must be provided to the student during the disciplinary removal consistent with E. (3.) below.

**E.** When a student with a disability has a disciplinary removal that would be a “change of placement,” the IEP Team will order services for the student that will enable the student to:

1. Continue to participate in the general curriculum although in another setting;
2. Progress toward meeting the goals in the IEP; and
3. Receive, as appropriate, a functional behavior assessment and behavior intervention services and modifications that are designed to address the behavior violation so that it does not recur.

**F.** For purposes of this section, a “change of placement” occurs if:

1. The removal is for more than ten (10) consecutive school days; or
2. The child has been subjected to a series of removals that constitute a pattern and:
  - a. Because the series of removals totals more than ten (10) cumulative days in the school year;
  - b. Because the child’s behavior is substantially similar to the behavior in previous incidents resulting in the series of removals; and
  - c. Because of additional factors such as the length of each removal, the total length, and the proximity of the removals to each other.

**G.** In those circumstances where a student brings a weapon to school, to a school function, or on school premises (including transportation); where a student knowingly possesses, uses, sells, or attempts to sell illegal drugs at school, a school function, or on school premises (including transportation); or when the student inflicts serious bodily injury upon another person while at school, a school function, or on school premises (including transportation) school officials may place that student in an alternative educational setting for up to 45 school days, will provide educational services for the student consistent with E. (3.) above, and will schedule an IEP Team meeting to occur within ten (10) school days of commencing that removal. At that meeting, the Team will undertake all necessary actions discussed in these procedures for responding to removals that constitute a change of placement for the student. Any further removals in response to the incident will be made consistent with these procedures and state and federal special education rules.